

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



**FISCAL NOTE**

**SB 742 - HB 1417**

March 5, 2019

**SUMMARY OF BILL:** Enhances the penalty for aggravated assault and reckless endangerment when a firearm is discharged from a motor vehicle.

**ESTIMATED FISCAL IMPACT:**

**Increase State Expenditures – \$187,600 Incarceration\***

Assumptions:

- The proposed legislation enhances the penalty for aggravated assault and reckless endangerment by one class if a firearm is discharged from a motor vehicle; revokes the offender's driver license for a period of up to one year following any period of confinement imposed; increases the fine in amount up to two times the amount authorized for the punishment of such crimes; mandates a minimum one year sentence; and makes the vehicle used in a second or subsequent offense subject to seizure.
- Based on information provided by the Department of Correction (DOC), there has been an average of 99.8 admissions for reckless aggravated assault each year over the last five years, a Class D felony offense.
- While the proposed legislation establishes mandatory sentence minimums, this analysis assumes that the offender will serve the established average sentence length.
- This analysis estimates that five percent, or five (99.8 x 5%), of the offenses were committed within a motor vehicle.
- The average time served for a Class D felony is 2.30 years. The average time served for a Class C felony is 3.62 years. The proposed legislation would enhance each admission by 1.32 years (3.62 – 2.30).
- Population growth will not impact these admissions.
- According to the DOC, 47.2 percent of offenders will re-offend within three years of their release. A recidivism discount of 47.2 percent has been applied to this estimate to account for the impact of offenders who would re-offend under current law within the additional time added by this legislation. It is assumed that the re-offender would have committed the subsequent offense at the same felony level as under current law (5 offenders x 47.2% = 2 offenders).

- According to DOC, the average operating cost per offender per day for calendar year 2019 is \$73.18.
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on three offenders (5 offenders – 2 recidivism discount) admitted every year serving an additional 1.32 years (482.13 days) for an annualized increase in state incarceration expenditures of \$105,847 ( $\$73.18 \times 482.13 \times 3$ ).
- Based on information provided by DOC, there has been an average of 104.4 admissions for reckless endangerment each year over the last five years, a Class E felony offense.
- This analysis estimates that five percent, or five ( $104.4 \times 5\%$ ), of the offenses were committed within a motor vehicle.
- The average time served for a Class E felony is 1.28 years. The average time served for a Class D felony is 2.30 years. The proposed legislation would enhance each admission by 1.02 years ( $2.30 - 1.28$ ).
- Population growth will not impact these admissions.
- According to the DOC, 47.2 percent of offenders will re-offend within three years of their release. A recidivism discount of 47.2 percent has been applied to this estimate to account for the impact of offenders who would re-offend under current law within the additional time added by this bill. It is assumed that the re-offender would have committed the subsequent offense at the same felony level as under current law ( $5.2 \text{ offenders} \times 47.2\% = 2 \text{ offenders}$ ).
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on three offenders (5 offenders – 2 recidivism discount) admitted every year serving an additional 1.02 years (372.56 days) for an annualized increase in state incarceration expenditures of \$81,792 ( $\$73.18 \times 372.56 \times 3$ ).
- The total recurring increase in state incarceration expenditures resulting from the proposed legislation is estimated to be \$187,639 ( $\$105,847 + \$81,792$ ).
- Based on the Fiscal Review Committee's 2008 study and the Administrative Office of the Courts' 2012 study on collection of court costs, fees, and fines, collection in criminal cases is insignificant. The proposed legislation will not significantly increase state or local revenue.
- The courts, district attorneys, and public defenders will not experience an increase in caseloads; therefore, any impact to the court system is estimated to be not significant.
- Any decrease in the number of driver licenses issued as the result of revocation after periods of incarceration is considered not significant due to the relative few number of applicable instances this may occur.
- Any impact resulting from possible seizure of vehicles for second and subsequent offenses is estimated to be not significant for the number of second and subsequent offenses is assumed to be few.

*\*Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

**CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

/amj